IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 1600 OF 2006

1. Shri Baban @ Nanasaheb Bhanudas Gaikwad,
2. Kalyan Bhanudas Gaikwad. ...Applicants

V/s.

State of Maharashtra. ...Respondent

Shri M.A. Chaudhari for Applicants.
Ms.S.D. Shinde, APP for the State.

CORAM : V.M. KANADE, J.

DATED : APRIL 25, 2006

P.C. :-

. Heard learned Counsel for the applicants and learned APP for the State.

. The applicants were arrested in connection with the complaint which was registered with the Sangola Police Station for the offence punishable under Sections 302 read with Section 34 of the IPC.

2. It is alleged that the present applicants and his brother assaulted Rajaram Gaikwad and as a result of the injuries which were sustained in the assault, he died. There is one eye witness who has seen the incident.

3. Learned Counsel for the applicants has taken me through the statement of this eye witness which is recorded by the police. This witness has stated that applicant no.1 was holding an iron bar, his other brother was holding a stick and other accused Vijay alias Kalyan i.e. applicant no.2 assaulted the deceased with a stone. The post mortem notes indicate that the deceased died due to skull fracture and injuries which were caused to his head by a stone. Taking into consideration, the statement of the eye witness, it appears that the deceased died as a result of the assault by Vijay. The chargesheet has been filed. In my view, the applicant no.1 is entitled to be released on bail subject to stringent conditions being imposed on him. The application of applicant no.2 is liable to be rejected since he had inflicted the blow according to the eye-witness in the skull of the deceased.

4. The applicant no.1 be released on bail in the sum of Rs.5000/- with one or two sureties in the like amount. The applicant no.1 shall not enter the

jurisdiction of Sangola Police Station till the disposal of the trial. The applicant shall give his new address to the Superintendent of Jail before he is released and shall report to the nearest police station once in a month.

5. The applicant no.1 shall not tamper with the evidence or threaten the witnesses. If any complaint is received by the Investigating Officer, the Public Prosecutor is at liberty to file an application for cancellation of bail.

6. The trial Court shall not be influenced by any observations made by this Court while deciding the application and the same shall not be construed as an expression of opinion on merits of the case.

. The application is disposed of.

(V.M. Kanade, J.)